

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSHUA OSTRANDER,

Plaintiff,

v.

ASSOCIATED CREDIT SERVICE,
INC., a Washington corporation; and
DAVID SOLBERG,

Defendants.

NO. 2:16-CV-0090-TOR

ORDER GRANTING PLAINTIFF'S
MOTION TO DISMISS WITHOUT
PREJUDICE

BEFORE THE COURT are Defendant's Motion to Compel (ECF No. 20) and Plaintiff's Motions to Dismiss (ECF No. 21) and Expedite (ECF No. 23). These matters were submitted for consideration without oral argument. The Court has reviewed the record and files herein, and is fully informed.

Plaintiff's counsel represents that he and his office have been unable to reach Plaintiff since October 2016. In effect, Plaintiff has abandoned his case. Counsel points out that there are outstanding discovery requests and a motion to compel that cannot be satisfied without his client.

ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS
WITHOUT PREJUDICE ~ 1

1 Defendant objects to dismissal, contending that a dismissal will strip the
2 Defendants of their legal rights under 15 U.S.C. § 1681n. The Court takes notice,
3 however, that there are no longer any counterclaims pending. See ECF No. 13.
4 Accordingly, Fed. R. Civ. P. 41(a)(1)(B) does not prohibit dismissal. Rule
5 41(a)(2) “allows a plaintiff, pursuant to an order of the court, and subject to any
6 terms and conditions the court deems proper, to dismiss an action without
7 prejudice at any time.” *Zanowick v. Baxter Healthcare*, ___ F.3d ___, slip. opinion
8 at *7 (9th Cir. March 9, 2017) (citation omitted). When ruling on a motion to
9 dismiss without prejudice, the district court must determine whether the defendant
10 will suffer some plain legal prejudice as a result of the dismissal. *Westlands Water*
11 *Dist. v. United States*, 100 F.3d 94, 96 (9th Cir. 1996). “[L]egal prejudice is just
12 that—prejudice to some legal interest, some legal claim, some legal argument.
13 Uncertainty because a dispute remains unresolved is not legal prejudice.” *Id.* at 97.
14 A ruling on a motion to dismiss “is addressed to the district court’s sound
15 discretion and the court’s order will not be disturbed unless the court has abused its
16 discretion.” *Id.* at 96.

17 The possibility that future discovery may reveal “bad faith” or a filing “for
18 purposes of harassment” is not a sufficient reason to keep this case pending. For
19 good cause shown, Plaintiff’s Motion to Dismiss Without Prejudice (ECF No. 21)

1 and Motion to Expedite (ECF No. 23) are **GRANTED**. Defendant's Motion to
2 Compel (ECF No. 20) is **DENIED** as **MOOT**.

3 **ACCORDINGLY, IT IS HEREBY ORDERED:**

4 1. Plaintiff's Motion to Expedite (ECF No. 23) is **GRANTED**.

5 2. Plaintiff's Motion to Dismiss without prejudice (ECF No. 21) is
6 **GRANTED**.

7 3. Defendant's Motion to Compel (ECF No. 20) is **DENIED** as **MOOT**.

8 The District Court Executive is directed to enter this Order, furnish copies to
9 counsel, and close the file.

10 **DATED** March 9, 2017.



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Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge